

Matthew I. Knepper, Esq.
Nevada Bar No. 12796
Miles N. Clark, Esq.
Nevada Bar No. 13848
KNEPPER & CLARK LLC
5510 So. Fort Apache Rd, Suite 30
Las Vegas, NV 89148
Phone: (702) 856-7430
Fax: (702) 447-8048
Email: matthew.knepper@knepperclark.com
Email: miles.clark@knepperclark.com

Counsel for Plaintiff
Alan Warenski

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ALAN WARENSKI,

Plaintiff,

v.

CHARTER COMMUNICATIONS doing
business as SPECTRUM,

Defendant.

Case No. 2:19-cv-00101-RFB-NJK

**STIPULATION AND ORDER TO EXTEND
STAY OF PROCEEDINGS**

(Second Request)

Complaint filed: January 17, 2019

Plaintiff Alan Warenski (“Plaintiff”) and Defendant Charter Communications doing business as Spectrum (“Spectrum”) (collectively, the “Parties”), by and through their counsel of record, hereby stipulation and agree as follows:

1. On August 11, 2020, the Parties reached a stipulation to stay the proceedings in this matter pending a ruling from the Supreme Court in the Ninth Circuit, in *Facebook, Inc. v. Duguid*, No. 19-511 (Jan. 9, 2020) (“*Duguid*”) as they believed awaiting a definitive resolution of the controlling definition of an ATDS would provide necessary clarification for the TCPA claim in this case. [ECF No. 56].¹

1 2. On August 12, 2020, the Court granted the Parties' stipulation and stayed the
2 proceedings until a decision in *Duguid* was reached. [ECF No. 57].

3 3. Apart from the TCPA claims, the only claim in the First Amended Complaint [ECF
4 No. 12] is for alleged violations of Nevada Revised Statutes Chapter 598.0918 and 41.600. *See*
5 Count III. On April 8, 2019, Charter moved to dismiss the Nevada claims and moved to dismiss
6 and/or to transfer the TCPA claims under the "first-to-file" rule. [ECF No. 17]. Charter's motion
7 to dismiss was Nevada claims was fully briefed [ECF Nos. 19, 23]. Charter later withdrew its
8 motion to dismiss and/or to transfer [ECF Nos. 31-2] after the first-filed action settled. On October
9 14, 2019, Charter filed its motion to dismiss the Nevada state law claims. [ECF No. 33]. On
10 October 8, 2020, the Court entered a "minute order in chambers" denying Charter's motion to
11 dismiss the state law claims without prejudice pending resolution of the *Duguid* decision, stating
12 that the motion could be refiled thereafter. [ECF No. 58].

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14 4. On April 1, 2021, the Supreme Court ruled in the *Duguid* matter.

15 5. On August 9, 2021, the parties filed a joint status report requesting an extension of
16 the stay order another twenty-one days so as to allow the parties to continue to confer on the impact
17 of the *Duguid* matter on Plaintiff's TCPA claims and as to whether this matter can be resolved or
18 narrowed without the necessity of motion practice. These discussions bear not only on the TCPA
19 claims, but also on whether Charter will need to file another motion regarding the Nevada claims.

20 6. The parties continue to engage in these discussions and respectfully request that the
21 existing stay order entered on June 17, 2020, be extended an additional thirty days to **September**
22 **30, 2021**, to allow the parties additional time to complete their discussions regarding the impact of
23 the *Duguid* decision as well as whether or not settlement of this case is a more prudent resolution
24 of this matter.
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7. This stipulation is the second request to extend the pending stay. It is made in good faith, is not interposed for delay, and is not filed for an improper purpose.

DATED: August 31, 2021.

KNEPPER & CLARK LLC	BROWNSTEIN HYATT FARBER SCHRECK, LLP
<u>/s/ Miles N. Clark</u>	<u>/s/ Patrick J. Reilly</u>
Matthew I. Knepper, Esq., SBN 12796	Patrick J. Reilly, Esq., SBN 6103
Miles N. Clark, Esq., SBN 13848	100 N City Pkwy., Suite 1600
KNEPPER & CLARK LLC	Las Vegas, NV 89106
5510 So. Fort Apache Rd, Suite 30	Email: preilly@bhfs.com
Las Vegas, NV 89148	
Phone: (702) 856-7430	THOMPSON COBURN LLP
Fax: (702) 447-8048	Matthew Guletz, Esq.
Email: matthew.knepper@knepperclark.com	(Admitted Pro Hac Vice)
Email: miles.clark@knepperclark.com	One U.S. Bank Plaza
	St. Louis, MO 63101
	Email: mguletz@thompsoncoburn.com
<i>Counsel for Plaintiff</i>	
<i>Alan Warenski</i>	<i>Counsel for Defendant</i>
	<i>Charter Communications dba Spectrum</i>

ORDER GRANTING
STIPULATION TO EXTEND STAY OF PROCEEDINGS

IT IS SO ORDERED.


RICHARD E. BOULWARE, II
United States District Court

DATED this 31st day of August, 2021.